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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/074,916	02/12/2002	Claude Weisbuch	46190/244201	8448
826	7590	10/10/2003	EXAMINER BEN, LOHA	
ALSTON & BIRD LLP BANK OF AMERICA PLAZA 101 SOUTH TRYON STREET, SUITE 4000 CHARLOTTE, NC 28280-4000			ART UNIT 2873	PAPER NUMBER

DATE MAILED: 10/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
10/074,916

Applicant(s)
WEISBUCH ET AL *ec*

Examiner
LOHA BEN

Art Unit
2873



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Feb 12, 2002
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on Jul 29, 2002 is/are a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 4
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

Loha Ben
Primary Examiner

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DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-43 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is presented in a narrative and confusing manner in that the recitation fails to generate positional or optical relationship between elements recited between lines 11 and 31 of page 33, and creates a confusion for failing to clearly indicate (1) whether the first and second reflective means recited on line 17 are the same reflective means recited on line 8 of page 33, and (2) whether the "at least one of the means" recited on line 34 is referred to the means recited on lines 8, 14, and 17, or to the elements recited on lines 11, 14, 17, 21, 26, and 30. Therefore, it is not understood.

As it is further noted, line 17 of claim 1 calls for first and second reflective means, but these means are not seen in any of the dependent claims. Instead, first and/or second reflective mirrors are seen freshly recited in, for example, claims 2, and 5-8. Are the mirrors in the latter claims and the first and second reflective means of claim 1 the same ?

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Still further, similar question as above is directed toward claims 10 and 13, as regards the mirrors recited.

As for the remaining limitations in claim 1 with respect to the microlenses, the diffraction means, the planar wave guide, the configuration of the upper surface of the substrate, and the planar resonators are seen each recited again, as fresh limitation, in one or another of claims 22-27, 34, 35, 38, and 39, as if they have no antecedent basis.

In claim 41: line 2, numeral "25" should be removed from the parantheses since channels 15 are not seen illustrated therein.

In claim 42: line 4, "the upper face" has no antecedent basis; and numeral 44 is not seen illustrated in the drawings.

The remaining claims depending from rejected base claim inherit the indefiniteness thereof.

Note: Although the claims have not been rejected on art, Reasons for Allowance cannot be given at this time due to the confusing nature of the claims as pointed out above.

Communication

Any inquiry concerning this communication should be directed to Loha Ben at telephone number (703)308-4820.

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The examiner's work schedule is from Monday to Saturday, and generally between 12:00 noon and 8:00 p.m.

A receptionist can be reached at (703)308-0956 concerning matter of a general nature.

September 30, 2003



Loha Ben
Primary Examiner